

## **New Appeal Regulations and Categorical Exclusion Categories**

On June 4, 2003, the Forest Service announced and made effective new appeal regulations addressing “Notice, Comment, and Appeal Procedures for National Forest System Projects and Activities.” This Final Rule was published on that date in the Federal Register, Volume 68, No. 107, page 33587. This action serves to amend the rule adopted in 1993 and was designed to encourage early and meaningful public participation in the environmental analysis of projects and activities. It clarifies certain provisions and reduces complexity in the original rule to improve the efficiency of processing appeals, and ensures consistency with the provisions of statutory authority.

Changes address emergency situations, notice and comment procedures and time periods, substantive comments, who may appeal, deciding officers, content of an appeal, and the formal appeal review process. The new regulations address the 215 appeals process, which applies to decisions that endeavor to implement the Land and Resource Management Plan. It does not modify the processes that apply to the “Notice, Comment, and Appeal” of the 217 regulations (that apply to appeals of the Land and Resource Management Plan itself) nor to the 251 regulations (that address decisions related to contractual and permit decisions). The entire text of the Final Rule can be accessed over the Internet by going to the Federal Register Web site at <http://www.gpoaccess.gov/fr/index.html>, and then inserting the volume and page number into the search functions.

These new categorical exclusions include two that address projects involving hazardous fuels projects and post-fire rehabilitation (FSH 1909.15-31.2, categories 11 and 12, respectively), and three that relate to limited timber harvest (FSH 1909.15-31.2, categories 13, 14, and 15). These new categorical exclusions were adopted in Notices of Final Interim Directives published in the Federal Register on June 5, 2003 and July 29, 2003, respectively. As with the new 215 Final Rules, the texts of the two sets of Final Interim Directives, and more supporting information, can be accessed at the Federal Register Web site at <http://www.gpoaccess.gov/fr/index.html>. These items are found in Volume 68, No. 108, page 33814, and Volume 68, NO. 145, Page 44598, respectively.

These new categories have been adopted in the Forest Service’s Environmental Policies and Procedures Handbook (FSH 1909.15-31.2 - Categories of Actions for Which a Project or Case File and Decision Memo are Required). A summary of the new categorical exclusions follows:

10. Hazardous fuels reduction activities using prescribed fire, not to exceed 4,500 acres, and mechanical methods for crushing, piling, thinning, pruning, cutting, chipping, mulching, and mowing, not to exceed 1,000 acres.
11. Post-fire rehabilitation activities, not to exceed 4,200 acres to repair or improve lands unlikely to recover to a management approved condition from wildland fire damage, or to repair or replace minor facilities damaged by fire.
12. Harvest of live trees not to exceed 70 acres, requiring no more than ½ mile of temporary road construction.
13. Salvage of dead and/or dying trees, not to exceed 250 acres, requiring no more than ½ mile of temporary road construction.
14. Commercial and non-commercial sanitation harvest of trees to control insects or disease, not to exceed 250 acres, requiring no more than ½ mile of temporary road construction, including removal of infested/infected trees and adjacent live uninfested/uninfected trees as determined necessary to control the spread of insects or disease.